

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WENDY D. TERHART, *individually and as*  
*Executrix of the Estate of Charles D. Terhart,*

Plaintiff,

v.

**DECISION AND ORDER**  
09-CV-1045S

NIAGARA MOHAWK POWER CORP.,  
NATIONAL GRID USA SERVICE COMPANY, INC.  
and METROPOLITAN LIFE INSURANCE COMPANY,

Defendants.  
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This is an ERISA action that arises out of a dispute concerning the amount of life insurance payments due under the terms of the decedent's policies. Before this Court is a Motion to Approve Settlement and a Motion to Seal the Settlement Agreement. (Docket Nos. 42 and 43.) Because this action was brought on behalf of an estate, it cannot be settled without leave of this Court. See Local Rule 41(a)(2)(A).

This Court has considered Plaintiff's motion and the terms of the settlement agreement, which contains confidentiality provisions that warrant filing it under seal. Based on that review, this Court finds that the proposed settlement is in the best interests of the estate and distributees. In so finding, this Court has considered (1) the circumstances giving rise to the claim, (2) the nature and extent of the damages, (3) the terms of the settlement and amount of attorneys' fees and other disbursements, (4) the circumstances of any other claims or settlements arising out of this same occurrence, and (5) the plaintiff's statement of why she believes this settlement is in the best interest of the estate and the distributees. See Local Rule 41(a)(2)(i)-(iv). Plaintiff's application will therefore be granted and this settlement approved.

IT HEREBY IS ORDERED, that Plaintiff's Motion to Approve Settlement (Docket No. 42) is GRANTED.

FURTHER, that Plaintiff's Motion to Seal the Settlement Agreement (Docket No. 43) is GRANTED.

FURTHER, that the proposed settlement is APPROVED.

FURTHER, that this action is dismissed with prejudice and without costs.

FURTHER, that the Clerk of Court is directed to close this case.

SO ORDERED.

DATED: June 19, 2012  
Buffalo, NY

s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court